

### Subpart A—Retail or Service Establishments, and Agriculture

#### § 519.1 Applicability of the regulations in this subpart.

(a) *Statutory provisions.* Under section 14 of the Fair Labor Standards Act of 1938, as amended, and the authority and responsibility delegated to him/her by the Secretary of Labor (36 FR 8755) and by the Assistant Secretary for Employment Standards (39 FR 33841) the Administrator of the Wage and Hour Division is authorized and directed, to the extent necessary in order to prevent curtailment of opportunities for employment, to provide by regulation or order for the employment, under certificates, of full-time students in retail or service establishments, or in agriculture. That section contains provisions requiring a wage rate in such certificates of not less than 85 percent of the minimum wage applicable under section 6 of the Act, limiting weekly hours of employment, stipulating compliance with the applicable child-labor standards, and safeguarding against the reduction of the full-time employment opportunities of employees other than full-time students employed under certificates.

(b) *Source of limitations.* Some of the limitations in this subpart are specifically required in section 14(b) of the Act. The other limitations implement the provisions in that section relating to employment opportunities, *i.e.*, the “extent necessary to prevent curtailment of opportunities for employment” and the avoidance of a “substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized” under section 14(b) is applicable.

[40 FR 6329, Feb. 11, 1975; 40 FR 22546, May 23, 1975]

#### § 519.2 Definitions.

(a) *Full-time students.* A *full-time student* for the purpose of this subpart is defined as a student who receives primarily daytime instruction at the physical location of a bona fide educational institution, in accordance with the institution’s accepted definition of a full-time student. A full-time

student retains that status during the student’s Christmas, summer and other vacations. An individual who was such a student immediately prior to vacation will be presumed not to have discontinued such status during vacation if local law requires his/her attendance at the end of the vacation. In the absence of such requirement his/her status during vacation will be governed by his/her intention as last communicated to his/her employer. The phrase in section 14(b) of the statute “regardless of age but in compliance with applicable child-labor laws,” among other things, restricts the employment in a retail or service establishment to full-time students who are at least 14 years of age because of the application of section 3(1) of the Act. There is a minimum age requirement of 16 years in agriculture for employment during school hours and in any occupation declared hazardous by the Secretary of Labor (subpart E–1 of part 570 of this title.) In addition, there is a minimum age restriction of 14 years generally for employment in agriculture of a full-time student outside school hours for the school district where such employee is living while so employed, except (1) Minors 12 or 13 years of age may be employed with written parental or guardian consent or they may work on farms where their parents or guardians are employed, and (2) minors under 12 may work on farms owned or operated by their parents or with parental or guardian consent on farms whose employees are exempt from section 6 by section 13 (a)(6)(A) of the Act.

(b) *Bona fide educational institution.* A *bona fide educational institution* is ordinarily an accredited institution. However, a school which is not accredited may be considered a *bona fide educational institution* in exceptional circumstances, such as when the school is too recently established to have received accreditation.

(c) *Retail or service establishment.* *Retail or service establishment* means a retail or service establishment as defined in section 13(a)(2) of the Fair Labor Standards Act. The statutory definition is interpreted in part 779 of this chapter.

(d) *Agriculture.* *Agriculture* means agriculture as defined in section 3(f) of